

REMARKS

Claims 1-37 are pending in the present application. Claims 1-19 are directed to the ligand, claims 20-27 are directed to a method of detecting a prion protein in a sample, claims 28-35 are directed to a method of removing prion protein from a sample, and claims 36-37 are directed to a composition for binding prion proteins.

The Examiner has imposed a 3 way Restriction and Election of Species Requirement among the claims alleging the presence of 3 distinct inventions and/or species. In particular, the Examiner has issued a Restriction Requirement based on the prion protein ligand, method of removing and detecting prion protein from a sample and the composition of the prion protein ligand.

Specifically, the Examiner alleges that the invention is directed to the following classes and subclasses:

- I. Claims 1-19, drawn to a prion ligand capable of binding to a peptide, classified in class 530, subclass 300.
- III. Claims 20-35, drawn to a method of detecting and removing a prion protein in a sample, classified in class 435, subclass 184.1.
- III. Claims 36 and 37, drawn to a composition for binding prion proteins, classified in class 530, subclass 300.

Additionally, the Examiner imposes an Election of Species Requirement among the species of the peptides to which the ligand is capable of binding (*e.g.*, SEQ ID NO: 1-4) and the species of the ligands represented by SEQ ID NOS: 116-139, 154-214, 221, and 222. The Examiner requires election of a single disclosed species for prosecution on the merits.

Applicants elect the invention of Group 1, with traverse.

Applicants respectfully traverse the Restriction on the ground that no adequate reasons and/or examples have been provided to support the conclusion of patentable distinctness between Applicants' claimed subject matter. While Applicants take no position regarding the patentable distinctness of the 3 different groups enumerated by the Examiner, Applicants submit that because no adequate reasons were offered in the Restriction Requirement to support a conclusion of patentable distinctness, the Restriction Requirement is insufficient, M.P.E.P. § 803. The indication that different classifications are involved in searching the application is merely a restatement of an unsupported conclusion of patentable distinctness.

Additionally, Applicants submit that a proper Restriction practice requires that there would be "serious burden on the Examiner if Restriction is not required" (M.P.E.P. § 802(2)), which Applicants respectfully submit is not the case in the present instance. Indeed the inventions of Group 1 and Group 3 as indicated by the Examiner belong to the same Class and subclass (*i.e.*, class 530, subclass 300).

Accordingly, Applicants respectfully submit that the Restriction Requirement is improper, and it should be withdrawn.

In the event that the Examiner's Restriction Requirement is made final, Applicants reserve the right to file divisional applications directed to the subject matter of Groups 2 and 3.

In response to the Election of Species Requirement, Applicants elect species of peptides represented by SEQ ID NO: 1 and species of ligand represented by SEQ ID NO: 116, with traverse.

Applicants respectfully traverse the Election of Species requirement on the same ground as stated above. Specifically, Applicants submit that no adequate reasons and/or examples have been provided by the Examiner to support the conclusion of patentable distinctness among different peptides and ligands claimed. Additionally, the Examiner has provided no reasons as to why a serious burden would be imposed on the Examiner to examine all the peptides and ligands claimed together.

Accordingly, Applicants respectfully request the Examiner to reconsider and withdraw the Election of Species Requirement among different claimed ligands and peptides of the invention.

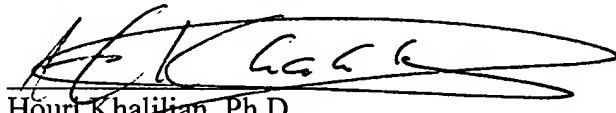
CONCLUSION

The search and examination of Claims 1-37 of the present invention in one application do not present serious burden on the Examiner. In light of the election of the three Groups above, Applicants respectfully request that the claims of these Groups be recombined and examined concurrently in the present application. Withdrawal of the Restriction and/or Election of Species requirement with respect to all Groups enumerated by the Examiner is therefore proper.

Applicants respectfully remind Examiner that MPEP §803 places the burden squarely on the examiner to "provide reasons and/or examples to support conclusions" presented in a Restriction and/or Election of Species Requirement. *See* also MPEP §808.02(B). Thus, if Examiner maintains any or all of the present Restriction Requirement, Applicants respectfully request that Examiner clearly articulate reasons and/or provide examples and evidence in support of her position.

Applicants' undersigned attorney may be reached by telephone at (301) 767-0134. All correspondence should be directed to our address given below.

Respectfully submitted,



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